

Claims 1 and 2 were rejected as anticipated by Berkley et al.

Claim 1 recites a multiplex circuit. No such apparatus is identified in the Berkley et al. patent.

Claim 1 recites a control means. The Examiner refers to control unit 18 (FIG. 1). Control unit 18 controls clipper circuits 24–28. There is no disclosure of a control means coupled to a multiplex circuit for coupling a subset of filters to the summation circuit.

Claim 2 recites that the band pass filters have a pass band of one half octave or less. The Examiner refers to column 5, lines 5–7 of the Berkley et al. patent, which disclose “Advantageously, for the four lowest-frequency filters ... 1–octave filters may be used.” The quoted language is **directly contrary** to the recitation of claim 2.

Claim 5 recites “finding the band with the largest signal.” The Petri et al. patent discloses no apparatus for performing this step. Therefore, claim 5 is not anticipated.

The Examiner asserts that “by determining the greater of a set, one is provided with the greatest.” This makes no sense to the undersigned. Applicants are required to use the English language in an application (Rule 52). Each language includes a grammar that is shared by those who profess to speak the language; otherwise, there is babble. The proper use of the comparative and superlative is part of English grammar and, presumably, is learned in grade school, also known as grammar school, and need not be proven. Nevertheless, enclosed are pages 52 and 53 from the *Harbrace College Handbook*, describing the proper use of adjectives.

The comment by the Examiner glosses over a fundamental difference between applicant's invention and the prior art by ambiguous use of the term “set.” The Petri et al. patent describes comparing the output signals from corresponding filters in two channels; i.e. the “set” in the Petri et al. patent is a set of two (and patentee properly uses the comparative to describe the operation of the circuit). In applicant's invention, the “set” in claim 5 is the total number of filters in both channels and applicant properly uses the superlative in the claims.

It is respectfully submitted that (1) there is nothing in the Petri et al. patent that remotely discloses or suggests this change from the prior art and (2) the Examiner is

required to interpret the claims according to formal English, not a personal grammar.


Claims 7, 8, and 11 were rejected as unpatentable over Petri et al. in view of Berkley et al. The deficiencies of these two patents are detailed above and in the record. In combination, the defects are not overcome.

There is no basis for the combination, and none is asserted, other than applicant's claims; *In re Rouffet* 47 USPQ2d 1453 (Fed. Cir. 1998). The Examiner asserts that "the motivation is based on knowledge generally available to one of ordinary skill in the art." "Generally available" knowledge is not evidence of record and such argument was thoroughly repudiated by the Federal Circuit in *In re Lee*, 61 USPQ2d 1430 (Fed. Cir. 2002).

A request for extension of time and the appropriate fee are enclosed.

The allowance in substance of some claims is noted with appreciation. In view of the foregoing remarks, it is respectfully submitted that claims 1, 2, and 5-12 are in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,



Paul F. Wille

Reg. No. 25,274

Attorney for Applicant

6407 East Clinton Street
Scottsdale, Arizona 85254
Tel. (602) 549-9088
Fax. (480) 778-0304

4d ad

4d Use the appropriate forms for the comparative and the superlative.

In general the shorter adjectives (and a few adverbs) form the comparative degree by adding *-er* and the superlative by adding *-est*; the longer adjectives and most adverbs form the comparative by the use of *more* (*less*) and the superlative by the use of *most* (*least*). Some adjectives, such as *good* and *bad*, and some adverbs, such as *well* and *badly*, have an irregular comparison. But these are among our common words and are seldom confused.

	Positive	Comparative	Superlative
ADJECTIVES	warm	warmer	warmest
	tired	more tired	most tired
	good	better	best
	bad	worse	worst
ADVERBS	warmly	more warmly	most warmly
	well	better	best
	badly	worse	worst

(1) Use the comparative degree for two persons or things.

RIGHT Today is *warmer* than yesterday.

RIGHT James was the *taller* of the two boys. [The superlative is occasionally used in such sentences, especially in informal speaking and writing.]

(2) Use the superlative degree for three or more persons or things.

RIGHT Today is the *warmest* day of the year.

RIGHT William was the *tallest* of the three boys.

Usage tends to ignore the fact that such adjectives as *round*, *square*, *perfect*, and *unique* express a complete

ad 4e

thing or idea and are therefore logically incapable of comparison.

ILLOGICAL This hoop is *rounder* than that.

LOGICAL This hoop is *more nearly round* than that. [Preferred by some careful writers]

4e Avoid any awkward or ambiguous use of a noun form as an adjective.

Although many noun forms (*boat race*, *show business*, *opera tickets*, etc.) are used effectively, especially when no appropriate adjective is available, such forms should be avoided when they are either awkward or ambiguous.

AWKWARD The man sometimes forgets his *gentleman* habits.

BETTER The man sometimes forgets his *gentlemanly* habits. [The regular adjective form substituted]

AMBIGUOUS Recently I was involved in a *race* argument.

BETTER Recently I was involved in an argument *concerning race* (or *about racing*).

► EXERCISES ON ADJECTIVES AND ADVERBS

A. In the following sentences choose the standard form of the modifier within parentheses. Justify your choice by a simple diagram or by analysis of the sentence. Use your dictionary to distinguish between standard and informal usage.

1. The plans, (beautiful, beautifully) drawn, were presented in all their (careful, carefully) elaborated detail.

2. The (older, oldest) of the two brothers had the (brighter, brightest) red hair, but the (smaller, smallest) one (easy, easily) outnumbered him in freckles.